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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,781	07/12/2001	John Border	PD-201022	1488

7590 06/06/2005

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EXAMINER

NAWAZ, ASAD M

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/903,781

Applicant(s)

BORDER, JOHN

Examiner

Asad M. Nawaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

nd

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to the amendment filed on February 9<sup>th</sup>, 2005. Claims 1-3, 10-13, 19-21, 28-30, and 34-36 have been amended. Claims 4, 13, 22, and 31 have been canceled without prejudice or disclaimer. Claims 37-40 have been newly added.
2. The drawing and specification have been amended and have been fully considered.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Kloth (USPN 6,598,034).

As to claim 1, Kloth teaches a method of transmitting information in a communication system that includes a platform and a prioritization apparatus, the method comprising: receiving the information from the platform, wherein the platform is

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configured to provide a plurality of performance enhancing functions relating to performance of the communication system; (Abstract; col 3, lines 62 to col 4, line 26)

Receiving one or more prioritization parameters from the platform, the prioritization parameters being associated with the performance enhancing functions, wherein the prioritization apparatus maintains a profile that contains the prioritization parameters; (Fig 4; col 3, lines 62 to col 4, line 26; col 6, lines 13-67)

Processing the information in accordance with the profile (col 2, line 58- col 3, line 14)

Claims 10, 19, and 28 are rejected for essentially being the system, apparatus, and computer readable media, respectfully, of method claim 1.

As to claim 2, Kloth teaches the method of claim 1, further comprising: determining a path for the information based on the profile. (col 2, line 58- col 3, line 14)

Claims 11, 20, and 29 are rejected for essentially being the system, apparatus, and computer readable media, respectfully, of method claim 2.

As to claim 3, Kloth teaches the method of claim 2, wherein the information is transported via one or more packets, the method further comprising: determining the path by applying at least one priority rule that specifies a criterion associated with the packet, the criterion indicating a source address, a destination address, a protocol type, a port number, a differentiated services parameter, or size of the packet. (Figs 5 and 11; col 3, lines 15-39)

Claims 12, 21, and 30 are rejected for essentially being the system, apparatus, and computer readable media, respectfully, of method claim 3.

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As to claim 5, Kloth teaches the method of claim 1, wherein a priority of the information is determined prior to receipt by the prioritization apparatus. (col 3, line 62- col 4, line 26)

Claims 14, 23, and 32 are rejected for essentially being the system, apparatus, and computer readable media, respectfully, of method claim 5.

As to claim 6, Kloth teaches the method of claim 1, further comprising: determining whether the information should be forwarded using an alternate path.(col 4, lines 38-61)

Claims 15, 24, and 33 are rejected for essentially being the system, apparatus, and computer readable media, respectfully, of method claim 6.

As to claim 7, Kloth teaches the method of claim 1, further comprising: receiving the prioritization parameters as a data structure from the platform. (Abstract; col 9, lines 6-24)

Claims 16, 25, and 34 are rejected for essentially being the system, apparatus, and computer readable media, respectfully, of method claim 7.

As to claim 8, Kloth teaches the method of claim 1, further comprising: receiving the prioritization parameters from the platform at start-up or when the platform receives updated path selection or path activation parameters. (Col 4, lines 38-61)

Claims 17, 26, and 35 are rejected for essentially being the system, apparatus, and computer readable media, respectfully, of method claim 8

As to claim 9, Kloth teaches the method of claim 1, further comprising: applying multiple prioritization rules using boolean operators. (col 3, lines 15-39)

Claims 18, 27, and 36 are rejected for essentially being the system, apparatus, and computer readable media, respectfully, of method claim 9.

As to claim 37, Kloth teaches the method of claim 1, wherein the performance enhancing functions include spoofing of a connection for transport of the information by selectively intercepting the information and modifying the information, the spoofed connection being prioritized among a plurality of spoofed connections.(col 4, line 65- col 5, line 3)

Claims 38, 39, and 40 are rejected for essentially being the system, apparatus, and computer readable media, respectfully, of method claim 37.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

6. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asad M. Nawaz whose telephone number is (571) 272-3988. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
AMN

  
BHARAT BAROT  
PRIMARY EXAMINER